



WEB COPY



W.P. No.29254 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.29254 of 2017

and

W.M.P.Nos.31521 & 31522 of 2017 & 3029 of 2018

U.R.Dhavamani

... Petitioner

Vs.

1.The Additional Registrar
Chennai Regional Co-operative Societies
O/o The Additional Registrar
No.91 St.Marys Road, RANFED Buildings,
Chennai-600018.

2.The Additional Registrar / Managing Director
Tamilnadu Co-operative Union
NVN Maaligai, 170 EVR Periyar Salai
Kilpauk, Chennai-600010

3.Mala
Assistant Training Officer
Pattukottai Co-operative Industrial Training Centre
Pattukottai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,

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praying for issuance of Writ of Certiorari Mandamus, calling for records relating to the 1st respondent order made in Rc.No.5261/2017/C2 dated 27.10.2017 to quash the same and to consequently directing the respondents 1 and 2 extend all benefits of order dated 25.10.2017.

For Petitioner : Mr.L.Chandrakumar
For Respondents
R1 : Mr.S.Ravikumar
Special Government Pleader
R2 : Mr.R.Bala Ramesh

ORDER

While, the petitioner was working as Junior Training Officer in the Tamil Nadu Cooperative Union, she was kept in charge for the post of Principal in Pattukottai Industrial Training Institute and then in connection with the discharge of her duties as Principal, she was subjected to disciplinary proceedings resulting in passing orders dismissing the petitioner from service through proceedings dated 07.10.2016. Aggrieved by the said order of dismissal from service, the petitioner preferred an appeal under the by-laws of the Union on 14.12.2016 and the said appeal was considered by the Board of the said Union and the punishment was set aside and the petitioner was seriously warned to be more careful in future. Consequently, by a resolution No.10 dated 25.10.2017, the petitioner was reinstated into service vide proceedings in Na.Ka.No.2766/2014/A1(C) dated 25.10.2017 and



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accordingly, the petitioner reported to duty.

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2. While so, the 2nd respondent, Managing Director of the Tamil Nadu Co-operative Union, who is also a part of the Board of the Union, filed a revision under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 (for short 'Act, 1983') before the 1st respondent. The 1st respondent entertained the said revision filed by the 2nd respondent and passed an interim order under sub-section 3 of Section 153 suspending the operation of the resolution as well as the order of reinstatement dated 25.10.2017. Aggrieved by the said order dated 25.10.2017, the petitioner approached this Court by filing this writ petition.

3. This Court, while entertaining the writ petition, passed an interim order suspending the order dated 27.10.2017 passed by the 1st respondent. Consequently, the writ petitioner was reinstated and is continuing in service as on date and whereas the revision petition filed before the 1st respondent is pending.

4. The learned counsel for the petitioner mainly contended that the 2nd respondent has no authority to file revision under Section 153 of Act, 1983



before the 1st respondent and therefore, the action of the 1st respondent in entertaining the revision filed by the 2nd respondent is totally incompetent.

5. Insofar as, the jurisdiction of the 1st respondent to entertain the revision under Section 153 in the fact situation is not in dispute. The issue is only whether the 2nd respondent has got any authority or locus to file the said revision against the decision/resolution passed by the Board of the Union or not. Rule 146 of the Tamil Nadu Co-operative Societies Rules, 1988 deals with powers and functions of Managing Director or the Chief Executive Officer.

6. The 2nd respondent herein filed the revision under Section 153 of Act, 1983 in the capacity of Managing Director of Tamil Nadu Cooperative Union. Under Rule 146 of Tamil Nadu Co-operative Societies Rules, 1988, the Managing Director shall carry into effect the resolution of the Board which are in accordance with the Act, rules and the by-laws and which are not against the interest of the society. In case, any such resolutions are not in accordance with Act, Rules or the by-laws or are against the interest of the society, he may refer such resolutions to the Government or to the Registrar



as the case may be. In terms of sub-rule 3 of Section 146, the Managing Director or the Chief Executive Officer may with the approval of the Board, institute or defend any suit or other legal proceedings on behalf of the society.

7. From the said Rule, it is evident that the Managing Director or the Chief Executive Officer, on his own, is not entitled to institute or defend any suit or other legal proceedings on behalf of the Society. It is only subject to approval of the Board, the Managing Director can initiate or defend the suit or other legal proceedings on behalf of the Society.

8. In the instant case, the resolution dated 25.10.2017 passed by the Board of the Tamil Nadu Co-operative Union is subjected to revision under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 without there being any approval from the Board of the Tamil Nadu Cooperative Union. Admittedly, there is no such approval from the Board of the Union enabling the 2nd respondent herein, to file revision under Section 153. In absence of any such approval from the board to file a revision under Section 153, the 2nd respondent herein totally lacks competency to file such revision. No doubt, Section 153 of the Tamil Nadu Co-operative Societies Act, 1983



speaks about *suo motu* power of the 1st respondent as well.

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9. From the order impugned in this writ petition dated 27.10.2017, it does not appear that the 1st respondent has exercised *suo motu* power. But it only shows that the revision was taken on record only at the instance of the 2nd respondent. As already observed, the 2nd respondent herein, is not competent to file revision. Once the entire Board of the Union in question has decided to revoke the punishment imposed upon the petitioner herein, while warning the petitioner seriously, the 2nd respondent has no business to file revision under Section 153 without the approval of the Board of the Union in question.

10. In the circumstances, the very revision petition filed by the 2nd respondent is totally incompetent, as a result of proceedings initiated by an incompetent authority and therefore, the same are liable to be declared as illegal.

11. In the light of the above, this Court does not see any reason to allow the proceedings pending before the 1st respondent and accordingly the



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same shall stand quashed and the impugned order is set aside.

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12. Accordingly, the writ petition is allowed. The miscellaneous applications, if any, shall stand closed. No costs.

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Index : Yes/No
Speaking Order : Yes/No
dpa

MUMMINENI SUDHEER KUMAR,J.

dpa

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